

Settlement, J

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
MERAULT K. ALMONOR and WILMA DORE
ALMONOR on behalf of themselves and on behalf of
their infant child, DEVIN K. ALMONOR;

Plaintiffs,

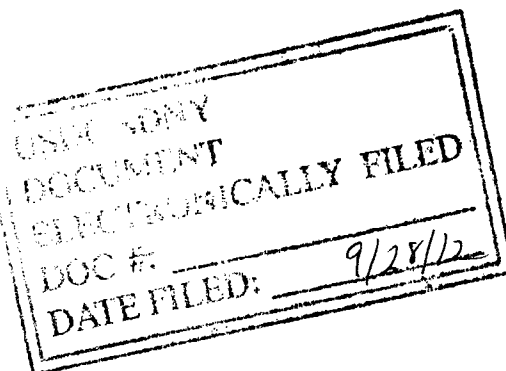
-against-

THE CITY OF NEW YORK, a municipal
corporation; POLICE OFFICER BRIAN DENNIS, in
his individual and official capacities; SERGEANT
JONATHAN KORABEL, in his individual and
official capacities; POLICE OFFICER MARIE DIAZ
MONTES, in her individual and official capacities;
SERGEANT SHARISSE SANDERS, in her
individual and official capacities; POLICE OFFICER
DORIS LOPEZ, in her individual and official
capacities; POLICE OFFICER EMANUEL
CHANG, in his individual and official capacities; and
JOHN DOES 1-10 (whose identities are currently
unknown but who are known to be police officers
and/or supervisory personnel of the New York City
Police Department), in their individual and official
capacities,

Defendants.
-----X

**STIPULATION OF
SETTLEMENT AND ORDER OF
DISMISSAL**

11 Civ. 4121 (SAS)



WHEREAS, plaintiffs commenced this action by filing a complaint on or about
June 17, 2011, alleging that the defendants violated plaintiffs' federal civil and state common
law rights; and

WHEREAS, defendants have denied any and all liability arising out of plaintiffs'
allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation,
without further proceedings and without admitting any fault or liability; and

WHEREAS, plaintiffs have authorized their counsel to settle this matter on the terms set forth below; and

WHEREAS, plaintiff DEVIN K. ALMONOR is an infant who brings this lawsuit by his parents and natural guardians, MERAULT K. ALMONOR and WILMA DORE ALMONOR; and

WHEREAS, by Order dated August 17, 2012, and filed on August 20, 2012, the Court reviewed and approved the terms of this settlement on behalf of the infant plaintiff pursuant to Local Civil Rule 83.2(a); and

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed against defendants, with prejudice, and without costs, expenses, or attorneys' fees in excess of the amount specified in paragraph "2" below.

2. Defendant THE CITY OF NEW YORK hereby agrees to pay plaintiffs MERAULT K. ALMONOR, WILMA DORE ALMONOR and DEVIN K. ALMONOR the sum of Three Hundred Twenty Thousand Dollars (\$320,000.00), in full satisfaction of all claims, including claims for costs, expenses and attorneys' fees. The aforesaid sum of \$320,000.00 will be apportioned and paid by The City of New York as follows: to Wilma Dore Almonor, as plaintiff, the sum of Sixty Thousand Dollars (\$60,000.00); to Merault K. Almonor, as plaintiff, the sum of Sixty Thousand Dollars (\$60,000.00); to Merault K. Almonor, as trustee and custodian for infant plaintiff Devin K. Almonor, the sum of Twenty Five Thousand Dollars (\$25,000.00), which sum will be deposited with the National Financial Services division of the New York Life Insurance Company, located at 51 Madison Avenue, Room 251, New York, New

York 10010, and shall be held therein for the sole use and benefit of said infant, subject to further order of this court; to the Law Offices of Robert Gottlieb, in full satisfaction of the amount due for representation of plaintiffs Wilma Dore Almonor and Meruallt Almonor in the criminal action, *People v. Wilma Dore Almonor and Meruallt K. Almonor*, Ind. No. 4016/10 (N.Y. County), the sum of Forty Five Thousand Dollars (\$45,000.00); to the Law Offices of Joel B. Rudin, co-counsel to the above-captioned plaintiffs, inclusive of attorneys' fees and all disbursements and expenditures made on plaintiffs' behalf, the sum of Sixty Five Thousand Dollars (\$65,000.00); and, to Beldock, Levine & Hoffman, LLP, counsel to the above-captioned plaintiffs, inclusive of attorneys' fees and all disbursements and expenditures made on plaintiffs' behalf, the sum of Sixty Five Thousand Dollars (\$65,000.00). In consideration for the payment of this sum, plaintiffs agree to the dismissal of all the claims with prejudice against defendants THE CITY OF NEW YORK, POLICE OFFICER BRIAN DENNIS, SERGEANT JONATHAN KORABEL, SERGEANT SHARISSE SANDERS, POLICE OFFICER DORIS LOPEZ, POLICE OFFICER MANUEL CHANG (s/h/a "Police Officer Emanuel Chang"), POLICE OFFICER MARIA DIAZ-MONTEZ (s/h/a "Police Officer Marie Diaz Montes"), and JOHN DOES 1 THROUGH 10 (hereinafter referred to collectively as "Defendants"), and to release the Defendants and any present or former employees and agents of the City of New York or any entity represented by the Office of the Corporation Counsel, from any and all liability, claims, or rights of action which were or could have been alleged in this or any other action from the beginning of the world to the date of the General Release, including but not limited to claims for costs, expenses, and attorneys' fees, and any and all related state law claims.

3. Plaintiffs each shall execute and deliver to defendant The City of New York's attorney all documents necessary to effect this settlement, including, without limitation, a

General Release based on the terms of paragraph 2 above and an Affidavit of Status of Liens. If Medicare has provided payment and/or benefits for any injury or condition that is the subject of this lawsuit, prior to tendering the requisite documents to effect this settlement, plaintiffs shall have notified Medicare and shall submit with the settlement documents a Medicare final demand letter for conditional payments. A Medicare Set-Aside Trust may also be required if future anticipated medical costs are found to be necessary pursuant to 42 U.S.C. § 1395y(b) and 42 C.F.R. §§ 411.22 through 411.26.

4. Defendant POLICE OFFICER MARIA DIAZ-MONTEZ hereby agrees to release and discharge plaintiffs MERAULT K. ALMONOR and WILMA DORE ALMONOR, and the infant-plaintiff DEVIN K. ALMONOR, and their successors or assigns, from any and all liability, claims, or rights of action which were or could have been alleged in this or any other action from the beginning of the world to the date of this Release, including but not limited to claims for costs, expenses, and attorneys' fees, and any and all related state law claims.

5. Defendant POLICE OFFICER MARIA DIAZ-MONTEZ hereby agrees to withdraw all cross-claims with prejudice against defendants THE CITY OF NEW YORK, POLICE OFFICER BRIAN DENNIS, SERGEANT JONATHAN KORABEL, SERGEANT SHARISSE SANDERS, POLICE OFFICER DORIS LOPEZ, POLICE OFFICER MANUEL CHANG (s/h/a "Police Officer Emanuel Chang"), and JOHN DOES 1 THROUGH 10.

6. Defendants THE CITY OF NEW YORK, POLICE OFFICER BRIAN DENNIS, SERGEANT JONATHAN KORABEL, SERGEANT SHARISSE SANDERS, POLICE OFFICER DORIS LOPEZ, and POLICE OFFICER MANUEL CHANG hereby agree, in consideration of this settlement, to release plaintiffs MERAULT K. ALMONOR and WILMA DORE ALMONOR, and the infant-plaintiff DEVIN K. ALMONOR, from any and all liability,

claims, third party claims, or rights of action which were, could have been, or will be alleged in this or any other action for damages arising from, or in any way related to, the incident on March 20, 2010, which gave rise to this lawsuit.

7. Nothing contained herein shall be deemed to be an admission by the defendants that they have in any manner or way violated plaintiffs' rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules or regulations of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

8. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or any agency thereof.

9. Settlement of this action is conditioned on compliance with the provisions set forth in Rule 83.2(a) of the Local Civil Rules of this Court ("Settlement of Actions by or on Behalf of Infants or Incompetents, Wrongful Death Actions, and Conscious Pain and Suffering Actions") and Rule 1207 *et seq.* of the Civil Practice Laws and Rules for the State of New York, to the extent applicable, and plaintiffs' counsel will submit to the Court whatever documents are necessary for an infant compromise order.

10. Plaintiffs agree to hold harmless defendants regarding any liens or past and/or future Medicare payments, presently known or unknown, in connection with this matter. If conditional and/or future anticipated Medicare payments have not been satisfied, defendants reserve the right to issue a multiparty settlement check naming Medicare as a payee or to issue a check to Medicare directly based upon Medicare's final demand letter.

11. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
September 26, 2012

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By: Richard E. Signorelli
Richard E. Signorelli

SO ORDERED:
[Signature]
HONORABLE SHIRA A. SCHEINDLIN
UNITED STATES DISTRICT JUDGE

9/28/12